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FILED
DISTRICT COURT OF GUAM
JAN 26 2007 ✓
MARY L.M. MORAN
CLERK OF COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WEN YUEH LU,

Defendant.

MAGISTRATE CASE NO. 06-00031

UNITED STATES MOTION TO
DISMISS


COMES NOW the United States of America, by and through undersigned counsel, and moves this Honorable Court for an order dismissing without prejudice the above-entitled matter, which is presently set for trial February 2, 2007. The United States makes this motion because it intends to prosecute this case as a felony pursuant to a law recently passed by Congress, 18 U.S.C. § 2237. This new statute, part of Public Law 109-177, Title III, § 303(a), was passed March 9, 2006, 120 Stat. 233. It provides that the penalty for the master of a vessel which is subject to United States jurisdiction and who fails to heave to at the direction of a United States law enforcement officer, is subject to a five-year felony. Because this is such a new statute, there appear to be no decisions or case law concerning its application. Government counsel is consulting with legal counsel for the United States Coast Guard, which has taken the initial

1 position that this statute applies to circumstances such as vessels conducting illegal activities
2 within the Exclusive Economic Zones of the United States. If, in the opinion of counsel for the
3 Coast Guard, this statute is applicable, the United States will be seeking an indictment charging a
4 violation of 18 U.S.C. § 2237(a)(1).

5 Respectfully submitted this 26th day of January, 2007.

6 LEONARDO M. RAPADAS
7 United States Attorney
8 Districts of Guam and CNMI

9 By:


10 KARON V. JOHNSON
11 Assistant U.S. Attorney
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